IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9299 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 to 5 NO

RAMESH ORGANIC LTD

Versus

G I D C

Appearance:

1. Special Civil Application No. 9299 of 1993

MR KG VAKHARIA Sr Advocate with MR TUSHAR MEHTA

Advocate for Petitioner No. 1-2

MR TEJAS BAROT for M/S TRIVEDI & GUPTA for Resp.No.1

RULE SERVED for Respondent No. 2-3

MR BP TANNA senior advocate for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 02/04/2004

ORAL JUDGEMENT

1. This petition under Article 226 of the Constitution seeks quashing of the eviction order dated 22.1.1993 issued and executed by the respondents on

account of non-payment of arrears by the petitioner. It was submitted that, although it was true that on the date of the impugned order the petitioner was in arrears and that order was not otherwise challenged, the petitioner had subsequently made an application dated 30.6.1993 for reclaiming the plot of land on which the petitioner had put up or started some constructions. It was submitted by senior counsel Mr.Vakharia that the aforesaid application dated 30.6.1993 ought to have been treated as an application under Section 5 (3) of the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972 and the Competent Officer ought to have allowed the petitioner to pay the arrears even at that late stage. It was, however, fairly conceded that neither the application was made within one month of notice or even the actual eviction as envisaged by the provisions of sub-section (3) of Section 5 nor was it made with payment of amount in arrears.

2. In the above facts and circumstances it is obvious that the petitioner could not have had the advantage of the provisions of sub-section (3) of Section 5 which envisages the making of payment and application within one month of the date of service of the eviction notice and does not provide for making application after the eviction is effected. No other provision was pointed out to susbtantiate the claim of the petitioner or to support setting aside the order of eviction. The petition is, therefore, dismissed and Rule is discharged with no order as to costs.

3. It was submitted that in view of the above order, Civil Application No.2342 of 1995 will not survive and, therefore, office is directed to place that on Board for the purpose of disposal. Sd/-

(D.H.Waghela,J.)

(KMG Thilake)